

AUSTIN ENERGY'S TARIFF PACKAGE:	§	
2015 COST OF SERVICE	§	BEFORE THE CITY OF AUSTIN
STUDY AND PROPOSAL TO CHANGE	§	IMPARTIAL HEARING EXAMINER
BASE ELECTRIC RATES	§	

**OBJECTIONS OF AUSTIN ENERGY TO
AELIC'S SEVENTH REQUEST FOR INFORMATION**

Austin Energy ("AE") files these Objections to AE Low Income Customers' ("AELIC") Seventh Request for Information ("RFI"), and respectfully shows as follows:

I. PROCEDURAL HISTORY

AELIC served its seventh RFI to Austin Energy on March 30, 2016. Pursuant to the City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates § 7.3(c)(1), these objections are timely filed.

Counsel for Austin Energy and AELIC conducted good faith negotiations that failed to resolve the issues. While Austin Energy will continue to negotiate with AELIC regarding these and any future objections, Austin Energy files these objections for preservation of its legal rights under the established procedures. To the extent any agreement is subsequently reached, Austin Energy will withdraw such objection.

II. GENERAL OBJECTIONS

Austin Energy generally objects to these RFIs to the extent they are irrelevant or seek competitive information not subject to disclosure under the Texas Public Information Act.

AUSTIN ENERGY
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III. SPECIFIC OBJECTIONS

AELIC 7-24 What are the termination dates for each of the coal supply contracts to which AE is a joint signatory with LCRA that are either in operation now or were in operation during the TY 2014. (Reference: AE response to AELIC RFI No. 4-15.)

Objection:

Austin Energy objects to this request because it seeks information that is neither relevant to the issues presented in this matter nor is reasonably calculated to lead to the discovery of admissible evidence. As indicated in Austin Energy's Tariff Package, the scope of this proceeding is limited to Austin Energy's base electric rates. AE's coal supply contracts are not included in base electric rates and are not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner's Memorandum No. 11. Thus, this request seeks information outside the scope of this proceeding.

Austin Energy considers this request a formal request under the Texas Public Information Act, Tex. Gov't Code Ch. 552. Austin Energy has determined the request seeks information regarding generation pricing information and unit operating characteristics that is related to competitive matters and, thus, not subject to disclosure pursuant to Tex. Gov't Code § 552.133, Confidentiality of Public Power Utility Competitive Matters.

AELIC 7-25 For each of the coal supply contracts whose termination dates are identified in RFI No. 7-24, please identify and quantify any costs such as financing penalty for early termination or for liquidated damages AE may incur as a signatory to the contract for early termination of the contract.

Objection:

Austin Energy objects to this request because it seeks information that is neither relevant to the issues presented in this matter nor is reasonably calculated to lead to the discovery of admissible evidence. As indicated in Austin Energy's Tariff Package, the scope of this proceeding is limited to Austin Energy's base electric rates. AE's coal supply contracts are not included in base electric rates and are not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner's Memorandum No. 11. Thus, this request seeks information outside the scope of this proceeding.

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AELIC 7-32 Please explain how AE's transmission O&M expenses went from a Texas Public Utility Commission finding of \$10,884,465 in 2006 (Reference: PUC Docket No. 31462, Final Order, FOF No. 12A) to \$145,698,897 (characterized as nonfuel O&M) in this rate filing? (Reference: Schedule A, Bates Stamp p. 767). In your explanation please identify cost elements that were not included in both the transmission O&M expenses determined in PUC Docket No. 31462 and the amount included as nonfuel transmission O&M expenses in this rate filing.

Objection:

Austin Energy objects to this request because it seeks information that is neither relevant to the issues presented in this matter nor is reasonably calculated to lead to the discovery of admissible evidence. As indicated in Austin Energy's Tariff Package, the scope of this proceeding is limited to Austin Energy's base electric rates. AE's transmission O&M expenses are not included in base electric rates and are not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner's Memorandum No. 11. Indeed, Memorandum No. 11 states, "the reasonableness of Austin Energy's Transmission Cost of Service ("TCOS") is outside the scope of this proceeding." The Public Utility Commission of Texas ("PUC") has exclusive jurisdiction over transmission related costs. Accordingly, transmission related costs are appropriately reviewed as part of a TCOS filing at the PUC. Thus, this request seeks information outside the scope of this proceeding.

Additionally, to the extent this request seeks an explanation, Austin Energy does not consider this request a formal request under the Texas Public Information Act, Tex. Gov't Code Ch. 552 because it requests the creation of new documents. The Texas Public Information Act does not require governmental bodies to provide answers to questions or to general inquiries, nor does it mandate the creation of new documents in response to a request. Information is subject to disclosure only if it was in existence at the time the request was made. Providing the requested explanation would require Austin Energy to create new documents in response to a request. Austin Energy is, thus, not required to respond to this request under the Texas Public Information Act.

AELIC 7-33 For each cost element identified in RFI No. 7-32, please explain why it was not included in both O&M amounts.

Objection:

Austin Energy objects to this request because it seeks information that is neither relevant to the issues presented in this matter nor is reasonably calculated to lead to the discovery of admissible evidence. As indicated in Austin Energy's Tariff Package, the scope of this proceeding is limited to Austin Energy's base electric rates. AE's transmission O&M expenses are not included in base electric rates and are not included in the scope of this proceeding as set forth in the Impartial Hearing Examiner's Memorandum No. 11. Indeed, Memorandum No. 11 states, "the reasonableness of Austin Energy's Transmission Cost of Service ("TCOS") is outside the scope of this proceeding." The Public Utility Commission of Texas ("PUC") has exclusive jurisdiction over transmission related costs. Accordingly, transmission related costs are appropriately reviewed as part of a TCOS filing at the PUC. Thus, this request seeks information outside the scope of this proceeding.

Additionally, Austin Energy does not consider this request a formal request under the Texas Public Information Act, Tex. Gov't Code Ch. 552 because it requests the creation of new documents. The Texas Public Information Act does not require governmental bodies to provide answers to questions or to general inquiries, nor does it mandate the creation of new documents in response to a request. Information is subject to disclosure only if it was in existence at the time the request was made. Providing the requested explanation would require Austin Energy to create new documents in response to a request. Austin Energy is, thus, not required to respond to this request under the Texas Public Information Act.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Austin Energy requests these objections be sustained. Austin Energy also requests any other relief to which it may show itself justly entitled.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &
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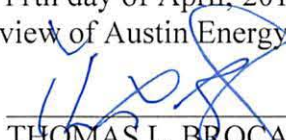
HANNAH M. WILCHAR

State Bar No. 24088631

ATTORNEYS FOR THE CITY OF AUSTIN

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading has been served on all parties and the Impartial Hearing Examiner on this 11th day of April, 2016, in accordance with the City of Austin Procedural Rules for the Initial Review of Austin Energy's Rates.



THOMAS L. BROCATO